

REMARKS

Claims 3 and 4 stand rejected under 35 USC 102(e) as being anticipated by Damien. This rejection is respectfully traversed. Claim 4 has been amended to place the claim in independent form. Claim 4 specifies that the product or structure is formed of a coral of "the species *Acropora grandis*." Claim 3 has been cancelled. Claims 5-13 have been amended to depend upon claim 4.

Damien discloses a medical product made from calcium carbonate obtained from the skeletons of a variety of corals which "can include, but are not limited to, *Acropora*, *Goniopora*, *Lobophylla*, *Porites* and mixtures thereof." See column 3, lines 2-4. Accordingly, Damien only identifies a number of coral genera, which contain hundreds of coral species, that could be used to obtain calcium carbonate. However, Damien does not disclose a particular species of coral for forming a shaped product or structure for medical related purposes as claimed by applicant.

Damien does not recognize that different coral species have different characteristics. Specifically, Damien fails to distinguish between the more porous and softer *Porites* species and the *Acropora* species, particularly the *Acropora grandis* species that are better suited to forming a shaped product or structure for medical related purposes as claimed by applicant. Damien only describes producing rectangular blocks from the coral genus *Porites*. See Example 4, column 13. As described by applicant, *Porites* species are typically more porous and softer than *Acropora* species and are, therefore, less appropriate for forming shaped products and structures. See specification page 8, 13-15. Applicant has found that *Acropora*, and specifically *Acropora grandis*, due to its density and strength, is better suited for producing shaped products. See specification, page 10, lines 7-12. Since Damien does not disclose the shaped product or structure claimed by applicant, claim 4 is not anticipated by Damien. Further, since Damien does not give any motivation for selecting the claimed species, claim 4 is not obvious in view of Damien. See MPEP 2144.08 (II)(A)(4)(a) (Some motivation to select the claimed species or

subgenus must be taught by the prior art. *See, e.g., In re Deuel*, 51 F.3d at 1558-59, 34 USPQ2d at 215.)

Claims 8-13 stand rejected under 35 USC 103(a) as being unpatentable over White in view of Damien. This rejection is respectfully traversed. As discussed above, Damien does not disclose a shaped product or structure made from the species *Acropora grandis*, as claimed by applicant in claim 4. Further, as the Examiner admits: "White et. al. fail to disclose the product or structure is form[ed] from coral of an *Acropora* species." Since neither Damien or White discloses all of the elements of claim 4, claim 4 is patentable. Further, claims 5-13, which depend upon claim 4, are patentable for at least the same reason as claim 4.

For the foregoing reasons an allowance of claims 4-13 of this application is solicited.

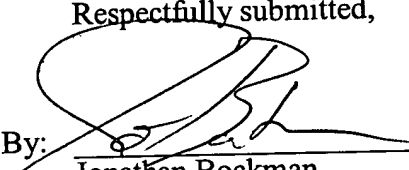
Attached hereto is a marked-up version of the changes made to the claim by this amendment. The attached page is captioned "Version with markings to show changes made".

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 229752001000.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES

IN THE CLAIMS:

Please cancel claim 3.

Please amend claims 4-12

4. (Twice Amended) A shaped product or structure for medical or related purposes ~~according to claim 3~~, wherein said product or structure is formed of a ~~the~~ coral of the species is *Acropora grandis*.

5. (Twice Amended) A product or structure according to claim-~~3~~ 4, which is configured as a hardware item for medical or related purposes.

6. (Twice Amended) A product or structure according to claim-~~5~~ 4, which is configured in the form of a cylinder, sleeve, pin, screw, bolt, nut, spacer, or flat or curved plate, for medical or related purposes.

7. (Twice Amended) A product or structure according to claim-~~3~~ 4, which is configured in the form of a prosthetic or implant device.

8. (Twice Amended) A product or structure according to claim-~~3~~ 4, wherein a therapeutically active substance is adsorbed or bound onto the coral.

9. (Amended) A product or structure according to claim-~~8~~ 4, wherein the therapeutically active substance is adsorbed or bound onto the coral.

10. (Amended) A product or structure according to claim-~~8~~ 4, wherein the therapeutically active substance is a growth factor to assist or promote bone ingrowth.

12. (Amended) A device according to claim-~~11~~ 4, comprising first and second elongate members each of which is adapted to be fixed at one end to a long bone, the other ends of each of said first and second elongate members being externally and internally threaded so that said first

member is received by said second member in a threaded inter-engagement to enable the overall length of the device to be adjusted.

13. (Amended) A device according to claim-~~12~~ 4, further comprising an internally-threaded third member in threaded engagement with the first member to act as a locking nut and to lock the second member with respect to the first member at a desired overall length.